

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:19-cv-00043-MR

JONATHAN JAMES NEWELL,)
Plaintiff,)
vs.)
SHELBY HOWELL,)
Defendant.)

ORDER

THIS MATTER is before the Court on Plaintiff's "Motion in Voluntary Dismissal." [Doc. 30].

Pro se Plaintiff Jonathan James Newell (“Plaintiff”) is a prisoner of the State of North Carolina currently incarceration at Warren Correctional Institution in Norlina, North Carolina. Plaintiff filed this action against Defendant Shelby Howell pursuant to 42 U.S.C. § 1983 alleging various Eighth Amendment violations. [Doc. 11]. The current deadline for completion of discovery in this matter is July 20, 2020.¹ [6/18/2020 Text Order].

Plaintiff now moves the Court to dismiss Plaintiff's Complaint pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure “[d]ue to COVID-19

¹ North Carolina Prisoner Legal Services was appointed to represent Plaintiff in this matter for the limited purpose of discovery only. [Doc. 23].

and the heavy burden on the state and its agencies and employees, the minute issue can be dismissed out of respect and compassion to the defendants essential work status amid the importance of preserving and protecting the public safety.” [Doc. 30 (grammatical errors uncorrected)]. Plaintiff asks that the dismissal not count as a strike under the Prisoner Litigation Reform Act (PLRA). [Id.].

The Court will grant Plaintiff’s motion to dismiss. Fed. R. Civ. P. 41(a)(2). The Court also notes that because Plaintiff’s Complaint is not being dismissed because it is “frivolous, malicious, or fails to state a claim,” the dismissal does not count as a strike under 28 U.S.C. § 1915(g).

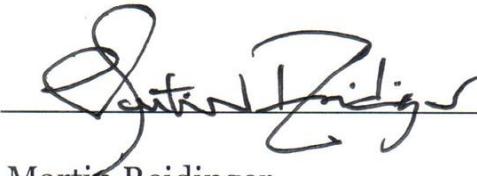
ORDER

IT IS THEREFORE ORDERED that Plaintiff’s motion to voluntarily dismiss his Complaint [Doc. 30] is **GRANTED** without prejudice.

The Clerk is respectfully instructed to terminate this action.

IT IS SO ORDERED.

Signed: July 14, 2020



Martin Reidinger
Chief United States District Judge
